

INDIANA NRCS

CULTURAL RESOURCES COMPLIANCE PROCESS

The Indiana NRCS has developed a process to comply with requirements of the National Historic Preservation Act (NHPA) and 36 CFR 800. Our agency mission results in many small projects on private land in which federal involvement may be planning assistance, technical advice, project design, cost sharing, purchase of easements, and/or approval. The NHPA requires that NRCS take into account the effects of its actions on historic properties. Federal regulations, 36CFR 800, identify how to comply with section 106 of NHPA. This Indiana NRCS compliance process identifies the appropriate level of effort that is commensurate with the nature of potential effects and the degree of federal involvement. This process will meet NRCS's legal requirements and avoid adverse affects to significant cultural resources in Indiana.

STEP-WISE PROCESS DESCRIPTION

It is NRCS policy to consider cultural resources early in the planning process. This usually means that upon identification of an undertaking, the Field Office should request that the Indiana Cultural Resources Specialist (CRS) conduct a review of the project. If the planners or engineers have the information on potential cultural concerns, the project can be designed to avoid potentially significant resources or areas of potential cultural concern. Completing the survey and evaluation prior to initiating contracts or other commitments can prevent delays and contract modifications.

The compliance process works best when sufficient time is allowed for each step. Most conservation planning assistance projects are completed upon a determination of negative results for the field and records check (step 4). In FY 2001, 94% of the projects did not go beyond this step. The records check is usually completed within two to four weeks of receipt or the request. However, if the records or field check is positive, a survey may have to be conducted. It is best to schedule archaeological survey in the spring and early summer months when bare ground is visible. At other times, ground preparation may be required (such as disking previously plowed fields). This adds time and cost to the project. If the survey identifies cultural resources within the area of potential effect, then consultation with the Indiana State Historic Preservation Officer (ISHPO) is required. The ISHPO has 30 days to comment on an undertaking. If the ISHPO objects within the thirty days, NRCS must consult to determine the appropriate course of action. Consultation can be a lengthy process.

Only Conservation Partnership employees (Indiana Natural Resource Conservation Service, Indiana Department of Natural Resources, Division of Soil Conservation and local Indiana Soil and Water Conservation Districts) who have completed Cultural Resources "Module 8" training (Cultural Resource Technicians) may make decisions on determinations of undertakings (step 1), may conduct cultural resources field checks (step

2), or may monitor construction (step 4.d.). If trained Conservation Partnership personnel are not available, the Field Office should go to step 3 and complete and submit the Cultural Resources Review Request to the Indiana Cultural Resource Specialist (CRS). A flowchart illustrating the process is shown in Figure 1.

Step 1. Determination of Undertaking: Employees must have completed Cultural Resources "Module 8" training to be qualified to make this determination.

a. Identify all conservation practices to be implemented for a project.

b. Consult the Classification of Indiana Conservation Practices (refer to Appendix I, Table 1) and determine the rating of all planned practices.

(1) The rating system classifies practices as an undertaking ("G"), a potential undertaking ("PG"), or not an undertaking ("NG").

(2) A project involving more than one type of practice is an undertaking if any practice is classified as an undertaking or potential undertaking with the potential to affect cultural resources.

c. Determine if any PG practices have a potential to affect cultural resources.

d. If all practices are determined to be "NG" or "PG – no effect", document the finding and place a record in the case file. Compliance with NHPA is complete.

e. If any practice is determined to be "G" or "PG – potential effect" it is an undertaking that requires further compliance, proceed to step 2.

Step 2. Determination of Area of Potential Effect (APE) and Field Check: Employees must have completed Cultural Resources "Module 8" training to be qualified to determine the APE and conduct the Field Check.

a. The Area of Potential Effect (APE) is the area within which impacts to cultural resources can reasonably be expected to occur as a result of the undertaking.

(1) Most often this is the area directly affected by a practice.

(2) However, if multiple instances of a practice or multiple practices are proposed, the APE may be the entire tract.

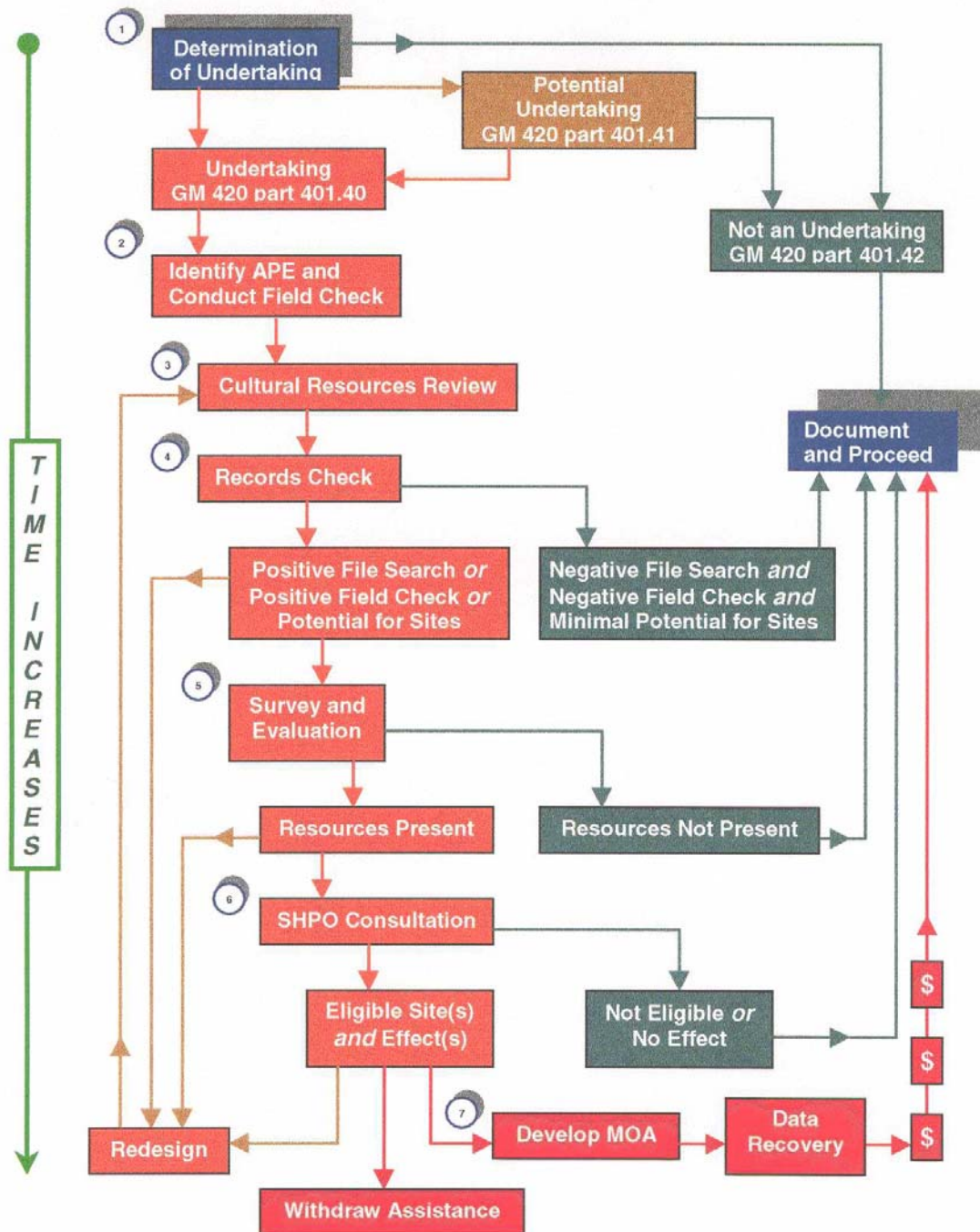
(3) In rare cases, the APE can extend beyond property lines to include the cultural landscape in which the tract is located.

(4) Document decision and proceed to Step 2.b.

b. If the project is classified as an undertaking, the Field Office should conduct a field check for cultural resources in the project APE.



Figure 1. INDIANA NRCS CULTURAL RESOURCES COMPLIANCE PROCESS



1. Field checks must be done when a minimum of 30% of the APE is bare ground.
2. Field checks require a walk over of the entire APE.
3. Document the presence or absence of cultural resources and proceed to Step 3.

Step 3. Cultural Resources Review Request: Required for all projects determined to be undertakings and for all projects for which a "determination of undertaking" is requested.

- a. Complete Part One the "Request for Cultural Resource Review" form (a copy is provided in Appendix II).
- b. Attach a copy of the U.S.G.S. 7.5-minute quadrangle showing the project boundary and each planned practice. The quadrangle should be at a scale of 1:24,000 feet.
- c. If a cultural resource is found during the field check, complete the "Cultural Resources Field" Form (a copy is provided in Appendix II).
- d. Submit the form and attachments to the Indiana CRS. The CRS will complete the rest of the process.

Step 4. Records and File Search: Performed by the CRS.

a. Upon receipt of a request from the Field Office, the Indiana CRS will review the Indiana State Historic Preservation Officer's (ISHPO) cultural resources records and files and any other pertinent documents to determine if any cultural resources are within the Area of Potential Effect (APE).

(1) The ISHPO regulations limit access to records to Tuesdays and Wednesdays.

(2) The CRS will attempt to schedule a records search within two weeks of receipt of a request in the state office. Expedited requests will be handled on a case-by-case basis.

b. The CRS will also evaluate the potential for cultural resources to be present within the APE based on its physiographic setting, soils and geomorphology, and the distribution of recorded resources in the vicinity of the APE.

c. If the file search reveals a known site in the APE, or if the field check identifies a site in the APE, or if there is a high potential for cultural resources in the APE (and no field check has been performed), the CRS will recommend that a survey and evaluation be completed. Proceed to Step 5.

d. If there are no known sites and there is a low potential for cultural resources in the APE, the CRS may recommend that the ground disturbing activity be monitored to ensure

that cultural resources are not inadvertently damaged. The CRS will document the finding and return the form to the Field Office for filing in the case file.

(1) Only the CRS or employees who have completed Cultural Resources "Module 8" training may monitor construction.

(2) If resources are found during monitoring, all activity should cease and the CRS should be immediately notified.

(3) If no resources are found during monitoring, document and place in case file.

e. If there are no known sites, and the field check did not identify any sites, and there is minimal potential for intact cultural resources in the APE, the CRS will document the finding and return the form to the Field Office for filing in the case file. Compliance with NHPA is complete.

Step 5. Survey and Evaluation:

a. The CRS or a cultural resources consultant (who meets ISHPO qualifications) will conduct a cultural resources survey and evaluation to determine if any cultural resources are in the APE.

(1) In order to conduct a "surface survey", the ground surface must have a minimum of 30% bare ground visible throughout the APE.

(2) If bare ground is visible on less than 30% of the area, Indiana state regulations require systematic shovel testing. This type of survey is generally too costly and time consuming to be performed by the CRS on projects greater than 1.0 acre in overall size. In these cases, the work may be done through contract, cooperative agreement or other acceptable mechanism.

(3) Scheduling of survey is best done in the late spring and early summer before vegetation leafs out or after fields have been disked and subjected to washing rains.

b. If no cultural resources are found, the CRS will prepare a report of negative findings and return the report and form to the Field Office for inclusion in the case file. Compliance with NHPA is complete.

c. If a cultural resource is present within the APE, the Indiana CRS will

(1) Coordinate with the Field Office to formulate recommendations on how to proceed, and

(2) Complete the appropriate Indiana SHPO site forms and prepare a report describing the proposed project, the survey, and recommendations regarding site significance.

d. If resources are present, the Field Office may choose to evaluate the project and design options to avoid the resources before proceeding to Step 7.

Step 6. ISHPO Consultation: The report and site forms will be sent to the ISHPO for comment. If the SHPO does not comment within 30 days, then the recommendations in the report may be implemented by NRCS.

a. If consultation determines that no significant resources are present, the CRS will provide a copy of the determination of eligibility to the Field Office for inclusion in the case file. NHPA consultation is completed.

b. If consultation determines that significant resources are present in the APE, then the CRS will consult for a determination of effect (this is usually done concurrently with the determination of eligibility).

c. If consultation determines that there is no adverse effect, a copy of the determination letter will be forwarded to the Field Office for inclusion in the case file. NHPA compliance is complete.

d. If consultation determines that there will be adverse effects, the CRS will initiate discussions with the Field Office to explore alternatives to reduce or eliminate the effects.

e. If the project can not be modified to eliminate the adverse effects, then proceed to step 7.

Step 7. Mitigate Effects or Withdraw Assistance. If avoidance is not possible and historic properties will be effected then NRCS has two options:

a. NRCS may attempt to develop a Memorandum of Agreement (MOA) with the ISHPO (and, if appropriate, the Advisory Council on Historic Preservation, ACHP).

(1) The MOA will identify the course of action that the agency will take to proceed with the project.

(2) The MOA will identify measures to limit or avoid impacts to significant resources. If required, a "data recovery plan" may be included that involves archaeological excavation, historic research, architectural or engineering documentation, formal avoidance procedures, or other appropriate measures.

(3) The project may not proceed until all conditions (or stipulations) of the MOA have been satisfied.

(4) Development and implementation of a MOA is costly, time consuming, and generally beyond the scope of most NRCS assistance projects.

b. NRCS may withdraw assistance by terminating its involvement in the project.

(1) The National Historic Preservation Act applies to federal undertakings or private projects on federal lands.

(2) If NRCS withdraws, the land owner should be informed of the significant properties and advised of possible applicable Indiana state statutes.

What Happens Now?

NRCS cultural resources responsibilities continue with implementation of construction (except in the case where NRCS has withdrawn from the project). If the compliance process identified any concerns such as avoidance or monitoring, it is NRCS's responsibility to ensure that these concerns are addressed and documented in the case file. If cultural resources are discovered during the course of construction, there are special provisions in the National Historic Preservation Act and 36 CFR 800 on how to deal with this situation. If human remains are uncovered, additional state and federal laws may be applicable.

If any cultural materials are exposed during construction activities all work should immediately cease, the area protected from further disturbance, and the Cultural Resources Specialist should be notified as soon as possible. The CRS will conduct an initial field evaluation of the unanticipated discovery within two working days of notification. If the materials appear to be significant, the CRS will coordinate with the Field Office, client, and the ISHPO to develop a plan to deal with the discovery. If human remains are involved, the CRS will initiate compliance with the appropriate federal and state statutes.

Appendix I

INDIANA CONSERVATION PRACTICES -

CLASSIFICATION OF AFFECTS

The National Historic Preservation Act and 36 CFR 800 require that NRCS take into account the effects of its undertakings on historic properties. Historic properties are cultural resources that qualify for listing on the National Register of Historic Places. In order to identify which projects will qualify as undertakings under the Act, Indiana conservation practices have been classified as either an undertaking (G), or a potential undertaking (PG), or not an undertaking (NG). The criteria for classification are the potential for the practice to affect significant cultural resources. Projects involving multiple practices are undertakings if any one practice is classified as an undertaking.

Indiana Conservation practices are identified in the NRCS Indiana Field Office Technical Guide (FOTG). Classifications are based on General Manual 420 part 401.40 through 420 part 401.42 and the practice descriptions found in Section IV National Practice Standards and Indiana Practice Specifications of the FOTG.

Undertakings (G): Conservation practices that can affect cultural resources when installed according to standard NRCS criteria are undertakings. The effects can be immediate (an effect caused by the installation process) or distant (an effect that can reasonably be expected to occur as a result of installation) and direct (an effect that impacts the resource) or indirect (an effect that causes a visual impact on an historic district). Practices that are classified as undertakings require a cultural resources review and evaluation to determine if historic properties are in the project Area of Potential Effect (APE).

Potential Undertakings (PG): Conservation practices that may affect cultural resources are potential undertakings. These practices may not be undertakings if installation of the practices will not exceed the depth, extent and type of previous disturbance. These practices are undertakings if they disturb previously undisturbed ground or involve a different type of disturbance. Only Conservation Partnership employees who have completed the Cultural Resources "Module 8" training or the CRS may make the determination of whether or not these practices are undertakings. If it is determined that the practice may affect cultural resources then the practice will be an undertaking and a cultural resources review and evaluation is required. If it is determined that the practice will not affect cultural resources, the decision rationale should be documented and placed in the case file along with a statement that cultural resources were considered and the project was determined not to be an undertaking under the NHPA.

Not Undertakings (NG): Conservation practices that do not affect cultural resources are not undertakings. These practices are generally management related, do not have any physical effects, and do not alter cultural resources. For projects that are not undertakings, a statement should be placed in the case file that documents that cultural resources were considered and the project was determined not to be an undertaking under the NHPA.

Table 1. CLASSIFICATION OF INDIANA CONSERVATION PRACTICES.

Indiana NRCS Cultural Resources Compliance Process November 15, 2001

Name	Code	Practice	Rating
560		Access Road	G
310		Bedding	PG
326		Clearing and Snagging	GP
360		Closure of Waste Impoundments	NG
397		Commercial Fishponds	G

317	Composting Facility	G
327	Conservation Cover	NG
328	Conservation Crop Rotation	NG
329	Conservation Tillage	NG
330	Contour Farming	NG
331	Contour Orchard and Other Fruit Area	PG
340	Cover and Green Manure Crop	NG
342	Critical Area Planting	PG
589B	Cross Wind Stripcropping	NG
348	Dam Diversion	G
402	Dam Floodwater Retarding	G
349	Dam Multiple-Purpose	G
356	Dike	G
362	Diversion	G
998	Drafting Basin	G
997	Dry Hydrants	G
647	Earl Successional Habitat/Development	PG
380	Farmstead and Feedlot Windbreak	PG
382	Fence	PG
386	Field Border	NG
392	Field Windbreaks	PG
393	Filter Strip	NG
394	Firebreak	G
395	Fish Stream Improvement	G
399	Fishpond Management	NG
400	Floodwater Diversion	G
511	Forage Harvest Management	NG
409	Forest Land Management System	NG
490	Forest Site Preparation	PG
666	Forest Stand Improvement	PG
410	Grade Stabilization Structure	G
412	Grassed Waterway or Outlet	NG
411	Grasses and Legumes in Rotation	NG
548	Grazing Land Mechanical Treatment	PG
561	Heavy Use Area Protection	PG

422	Hedgerow Planting	PG
522A	Irrigation Pit or Regulating Reservoir-Irrigation Pit	G
552B	Irrigation Pit or Regulating Reservoir-Regulating Reservoir	G
436	Irrigation Storage Reservoir	G
442	Irrigation System Sprinkler	NG
443	Irrigation System Surface & Subsurface	PG
441	Irrigation System Trickle	PG
430DD	Irrigation Water Conveyance High Pressure Underground Plastic Pipeline	G
430EE	Irrigation Water Conveyance Low Pressure Underground Plastic Pipeline	G
449	Irrigation Water Management	NG
460	Land Clearing	G
451	Land Reclamation Fire Control	G
456	Land Reclamation Highwall Treatment	G
453	Land Reclamation Landslide Treatment	G
452	Land Reclamation Shaft & Adit Closing	G
454	Land Reclamation Subsidence Treatment	G
455	Land Reclamation Toxic Discharge Control	G
543	Land Reconstruction Abandoned Mined Land	G
773	Land Reconstruction Brine Damaged Areas	G
544	Land Reconstruction Currently Mined Land	G
466	Land Smoothing	PG
468	Lined Waterway or Outlet	PG
472	Livestock Exclusion	NG
430AA	Irrigation Water Conveyance Pipeline Aluminum Tubing	G
634	Manure Transfer	G
457	Mine Shaft and Adit Closing	G
484	Mulching	NG
590	Nutrient Management	NG
500	Obstruction Removal	G
582	Open Channel	G
512	Pasture and Ha Planting	NG
510	Pasture and Hayland Management	NG
595	Pest Management	NG
516	Pipeline	G

378	Pond	G
521E	Pond Sealing or Lining , Asphalt-Sealed Fabric Liner	PG
521C	Pond Sealing or Lining , Bentonite Sealant	PG
521D	Pond Sealing or Lining , Cationic Emulsion Waterborne Sealant	PG
521A	Pond Sealing or Lining , Flexible Membrane	PG
521B	Pond Sealing or Lining , Soil Dispersant	PG
338	Prescribed Burning	PG
528A	Prescribed Grazing	NG
533	Pumping Plant for Water Control	G
562	Recreation Area Improvement	PG
566	Recreation Land Grading & Shaping	G
568	Recreation Trail & Walkway	PG
554	Regulating Water in Drainage Systems	NG
329B	Residue Management, Mulch Till	NG
329A	Residue Management, No Till/Strip Till	NG
329C	Residue Management, Ride Till	NG
344	Residue Management, Seasonal	NG
643	Restoration and Management of Declining Habitats	PG
391	Riparian Forest Buffer	PG
558	Roof Runoff Management	NG
570	Runoff Management System	G
350	Sediment Basin	G
646	Shallow Water Management for Wildlife	G
572	Soil Spreading	G
574	Spring Development	G
575	Stock Trails and Walkways	PG
584	Stream Channel Stabilization	G
580	Streambank and Shoreline Protection	G
585	Stripcropping Contour	NG
586	Stripcropping Field	NG
589	Stripcropping Wind	NG
587	Structure for Water Control	G
606	Subsurface Drain	PG
607	Surface Drainage Field Ditch	G
608	Surface Drainage, Main or Lateral	PG

609	Surface Roughening	NG
600	Terrace	G
612	Tree /Shrub Establishment	PG
660	Tree/Shrub Pruning	NG
614	Trough or Tank	PG
620	Underground Outlet	G
312	Waste Management System	PG
425	Waste Storage Pond	G
313	Waste Storage Structure	G
359	Waste Treatment Lagoon	G
633	Waste Utilization	NG
638	Water and Sediment Control Basin	G
641	Water Table Control	G
636	Water-Harvesting Catchment	G
642	Well	G
657	Wetland Development or Restoration	G
645	Wildlife Upland Habitat Management	NG
648	Wildlife Watering Facility	G
644	Wildlife Wetland Habitat Management	G
650	Windbreak Renovation	PG
652	Woodland Direct Seeding	PG

APPENDIX II: FORMS

(1) Request for Cultural Resources Review

(2) Suggestions for Submitting the Form and Quadrangle Via Email

(3) Cultural Resources Field Form

(4) Cultural Resources Field Form Instructions

(5) Indiana Division of Historic Preservation and Archaeology, Archaeological Site Form
Electronic Version (Word Document)
